

1 PHILLIP A. TALBERT
2 United States Attorney
3 DAVID L. GAPPY
4 Assistant United States Attorney
5 2500 Tulare Street
6 Suite 4401
7 Fresno, California 93721
8 Telephone: (559) 497-4000
9 Facsimile: (559) 497-4099

10
11 Attorneys for Plaintiff
12 United States of America

13
14 IN THE UNITED STATES DISTRICT COURT
15
16 EASTERN DISTRICT OF CALIFORNIA

17 UNITED STATES OF AMERICA,
18 Plaintiff,
19 v.
20 CLAUS MARCUSLUND,
21 Defendant.

22 CASE NO. 1:23-CR-00141-JLT-SKO
23 STIPULATION TO CONTINUE DATE FOR
24 STATUS CONFERENCE
DATE: January 17, 2024
TIME: 1:00 p.m.
COURT: Hon. Sheila K. Oberto

25
26 This case is scheduled for a status conference on December 6, 2023, but the parties have agreed
27 to move this hearing to January 17, 2024.

28
29 Ends-of-justice continuances are excludable only if “the judge granted such continuance on the
30 basis of [her] findings that the ends of justice served by taking such action outweigh the best interest of
31 the public and the defendant in a speedy trial.” 18 U.S.C. § 3161(h)(7)(A). Moreover, no such period is
32 excludable unless “the court sets forth, in the record of the case, either orally or in writing, its reason or
33 finding that the ends of justice served by the granting of such continuance outweigh the best interests of
34 the public and the defendant in a speedy trial.” *Id.*

35
36 Recently, the Ninth Circuit enumerated a “non-exhaustive” list of seven factors it found to be
37 “relevant” in considering ends-of-justice Speedy Trial Act continuances. *United States v. Olsen*, 21
38 F.4th 1036, 1047 (9th Cir. 2022). That non-exhaustive list includes: (1) whether a defendant is detained
39 pending trial; (2) how long a defendant has been detained; (3) whether a defendant has invoked speedy

1 trial rights since the case's inception; (4) whether a defendant, if detained, belongs to a population that is
2 particularly susceptible to complications if infected with the [COVID-19] virus; (5) the seriousness of
3 the charges a defendant faces, and in particular whether the defendant is accused of violent crimes; (6)
4 whether there is a reason to suspect recidivism if the charges against the defendant are dismissed; and
5 (7) whether the district court has the ability to safely conduct a trial. *Id.*

6 In light of the factors above, this court should consider the following case-specific facts in
7 finding excludable delay appropriate in this particular case under the ends-of-justice exception, §
8 3161(h)(7). When continued, this court should designate a new date for the hearing. *United States v.*
9 *Lewis*, 611 F.3d 1172, 1176 (9th Cir. 2010) (noting any pretrial continuance must be “specifically
10 limited in time”).

11 Plaintiff United States of America, by and through its counsel of record, and defendant, by and
12 through defendant's counsel of record, accordingly stipulate as follows:

13 1. By previous order this matter was set for a status conference hearing on December 6,
14 2023. The Court more recently has invited a continuance of this hearing if counsel do not believe that
15 anything substantial can be accomplished at the currently scheduled hearing.

16 2. By this stipulation, the parties agree that the next status conference be scheduled for
17 January 17, 2024, and to exclude time between December 6, 2023, and January 17, 2024, under 18
18 U.S.C. §§ 3161(h)(7)(A) and 3161(h)(7)(B)(i), (ii) and (iv).

19 3. The parties agree, and request that the Court find the following:

20 a) A continuance is required to permit defense counsel to complete reviewing
21 discovery that has been provided. The parties are also in settlement discussions and believe that
22 the requested time will be adequate to finalize an agreement or pick an appropriate trial date.

23 b) The government does not object to the continuance and joins in the request.

24 c) Based on the above-stated findings, the ends of justice served by continuing the
25 case as requested outweigh the interest of the public and the defendant in a trial within the
26 original date prescribed by the Speedy Trial Act.

27 d) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161,
28 et seq., within which trial must commence, the time period from December 6, 2023, to January

17, 2024, inclusive, is deemed excludable under 18 U.S.C. §§ 3161(h)(7)(A) and
3161(h)(7)(B)(i), (ii) and (iv) because it results from a continuance granted by the Court at the
request of the parties on the basis of the Court's finding that the ends of justice served by taking
such action outweigh the best interest of the public and the defendant in a speedy trial.

4. Nothing in this stipulation and order shall preclude a finding that other provisions of the
Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial
must commence.

IT IS SO STIPULATED.

Dated: November 29, 2023

PHILLIP A. TALBERT
United States Attorney

/s/ David Gappa
DAVID L. GAPPY
Assistant United States Attorney

Dated: November 29, 2023

/s/ ERIN SNIDER
ERIN SNIDER
COUNSEL FOR
CLAUS MARCUSLUND

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CLAUS MARCUSLUND,

Defendant.

CASE NO. 1:23-CR-00141-JLT-SKO

ORDER

DATE: January 17, 2024

TIME: 1:00 p.m.

COURT: Hon. Sheila K. Oberto

ORDER

The court has reviewed and considered the stipulation filed by the parties on November 29, 2023, and also reviewed the record of this case. For the reasons stated in the stipulation the court finds good cause for rescheduling the hearing to January 17, 2024. The court also finds that the time between December 6, 2023, and January 17, 2024, under 18 U.S.C. §§ 3161(h)(7)(A) and 3161(h)(7)(B)(i), (ii) and (iv) shall be excluded from Speedy Trial Act time calculations.

IT IS SO ORDERED.

DATED: 11/29/23

Sheila K. Oberto

THE HONORABLE SHEILA K. OBERTO
UNITED STATES MAGISTRATE JUDGE